

### **REMARKS**

This Application has been carefully reviewed in light of the Final Office Action mailed January 10, 2006. Claims 1-29 are pending and stand rejected. For the purposes of advancing prosecution, Applicant amends Claims 1, 3-6, 9, 14, 15, 17-19, 25, and 27. Applicant respectfully submits that no new matter has been by the amendments to the claims. Moreover, Applicant has responded to each notation by the Examiner. Applicant respectfully requests reconsideration and favorable action in this case.

### **Section 102 Rejections**

Claims 1, 4-5, and 9-13 stand rejected under 35 U.S.C. § 102(e) as allegedly being unpatentable over U.S. Patent 6,712,701 to Boylan, III, et al. ("*Boylan*"). Applicant respectfully traverses these rejections for the reasons discussed below. To further clarify the claimed invention, Applicant amends Claim 1. As amended, Claim 1 recites:

A method of wagering on horse races in an event having races, the method comprising:  
    predetermining a quantity of the event's races to be included in a wager;  
    allowing a player to choose a plurality of the event's races to be included in the wager, wherein the player is required to choose a number of chosen races equal to the predetermined quantity;  
    allowing the player to select a winner for each of the chosen races, the selected winners included in the wager; and  
    paying the player if a predetermined number of the selected winners win corresponding chosen races.

*Boylan* fails to recite, either expressly or inherently, every element of amended Claim 1 for at least several reasons.

First, *Boylan* fails to disclose "allowing a player to choose a plurality of the event's races to be include in the wager, wherein the player is required to choose a number of chosen races equal to the predetermined quantity." In rejecting Claim 1, the Examiner equates "pick 3" and "pick 5" bets allegedly offered by *Boylan* with the "wager" of Claim 1. Specifically, the Examiner notes that "Boylan's system presents the user with a plurality of options and types of wagers to be made that includes a predetermined quantity of event's [sic] to be included in a wager (*ie: pick 3, pick 5*)."  
*Office Action*, pp. 2-3. Nonetheless, Applicant respectfully notes that, with respect to "pick-n" wagers, *Boylan* merely states that "[p]ayoff

values may be provided for winning complex wager types such as exacta, trifecta, quinella, pick-n (where n is the number of races involved in the pick-n wager), and daily double.” Col. 6, ll. 19-24. The system of *Boylan* does not allow “a player to choose which of the event’s races the player would like to make a [pick-n] wager on (ie: which races at the different race tracks they would like to participate)” as the Examiner suggests. *Office Action*, p. 5. Thus, to the extent the Examiner is attempting to map the pick-n wagers disclosed by *Boylan* to the “wager” of Claim 1, *Boylan* does not disclose “allowing a player to choose a plurality of the event's races to be included in the [pick-n wagers]” and, thus, does not disclose “allowing a player to choose a plurality of the event's races to be included in the wager” as recited by Claim 1.

Second, *Boylan* fails to disclose “paying the player if a predetermined number of the selected winners win corresponding chosen races.” In addressing similar elements in previously-presented Claim 1, the Examiner references a particular portion of *Boylan* that describes “totalisators” that provide racing data. Col. 5, l. 59. In the cited portion, *Boylan* states that:

Totalisators 30 may provide race results, such as the order-of-finish list for at least the first here positions and payoff values versus a standard wager amount for win, place, and show, for each runner in the finish list. Payoff values may be provided for winning complex wager types such as exacta, trifecta, quinella, pick-n (where n is the number of races involved in the pick-n wager), and daily double. The payoff values may be accompanied by a synopsis of the associated finish list.

Col. 6, ll. 15-23.

Thus, the totalisators in the cited portion of *Boylan* merely provide payoff information (emphasis and underlining added). The cited portion of *Boylan* does not disclose that the totalisators are capable of “paying the player,” let alone that the totalisators are capable of “paying the player if a predetermined number of the selected winners win corresponding chosen races,” as required by amended Claim 1. In fact, the only possible references to payments of any sort in *Boylan* are statements that “[a]fter the user places a wager and wins or loses, the totalisator adjusts the user's totalisator account to reflect the outcome of the wager” and that “[r]acing results may be provided to the user over ...[a] communications path and the user's account may be credited or debited, as appropriate.” Col. 7, ll. 50-52; col. 18, ll. 49-51. Nonetheless, *Boylan* does not disclose that a totalisator “pay[s] the player if a

predetermined number of the selected winners win corresponding chosen races.” Thus, *Boylan* does not disclose “paying the player if a predetermined number of the selected winners win corresponding chosen races” as recited by amended Claim 1.

As a result, *Boylan* fails to disclose, inherently or explicitly, every element of amended Claim 1. Claim 1 is thus allowable for at least these reasons. Applicant respectfully requests reconsideration and allowance of Claim 1 and its dependents.

Applicant also amends Claim 9 to further clarify the scope of the claimed invention. As amended, Claim 9 recites:

A computer assisted method for administering betting on a plurality of races within a racing event using a computer for assistance, comprising:  
publishing race information associated with the racing event to a plurality of players for use in a wager;  
establishing a predetermined quantity of the event races to be included in the wager;  
receiving a first selection of a subset of the plurality of races within the racing event from each of the plurality of players, the number of races in the first selection corresponding to the predetermined quantity of event races in the wager;  
receiving from each of the plurality of players a second selection of predicted winners, each of the predicted winners corresponding to at least one of the races in the first selection, the first and second selections included in the wager;  
receiving from each of the plurality of players a bet associated with the wager;  
pooling at least a portion of each bet to form a pool;  
receiving results from each race within the racing event;  
identifying a set of winning players from the plurality of players by determining which of one or more players of the plurality of players correctly selected each predicted winner in the second selection for each race within the first selection; and  
sending at least a portion of the pool to one or more identified winning players.

*Boylan* also fails to disclose either, expressly or inherently, every element of amended Claim 9 for at least several reasons. First, *Boylan* fails to disclose “receiving a first selection of a subset of the plurality of races within the racing event from each of the plurality of players, the number of races in the first selection corresponding to the predetermined quantity of event races in the wager.” In rejecting Claim 9, the Examiner equates “pick 3” and “pick 5” bets allegedly offered by *Boylan* with the “wager” of Claim 9. As discussed above with respect to the rejection of Claim 1, the Examiner asserts that “Boylan’s system presents the user with a

plurality of options and types of wagers to be made that includes a predetermined quantity of event's [sic] to be included in a wager (*ie: pick 3, pick 5*).” *Office Action*, pp. 2-3. However, Applicant again respectfully notes that, with respect to “pick-n” wagers, *Boylan* merely states that “[p]ayoff values may be provided for winning complex wager types such as exacta, trifecta, quinella, pick-n (where n is the number of races involved in the pick-n wager), and daily double.” Col. 6, ll. 19-24. The system disclosed by *Boylan* does not allow “a player to choose which of the event’s races the player would like to make a [pick-n] wager on (*ie: which races at the different race tracks they would like to participate*)” as the Examiner suggests. *Office Action*, p. 5. *Boylan* provides no suggestion that the races included in the pick-n wagers are selected by the bettor. Thus, to the extent the Examiner is attempting to map the pick-n wagers disclosed by *Boylan* to the “wager” of Claim 9, *Boylan* does not disclose “receiving a first selection of a subset of the plurality of races..., the number of races in the first selection corresponding to the predetermined quantity of event races” in the pick-n wagers and, thus, does not disclose “receiving a first selection of a subset of the plurality of races within the racing event from each of [a] plurality of players, the number of races in the first selection corresponding to the predetermined quantity of event races in a wager” as recited by Claim 9.

Second, *Boylan* also fails to disclose “identifying a set of winning players from the plurality of players by determining which of one or more players of the plurality of players correctly selected each predicted winner in the second selection for each race within the first selection.” In rejecting Claim 9, the Examiner asserts merely that the system of *Boylan* “identifies the winners that have selected the correct results. . .” Applicant respectfully notes, however, that the Examiner has improperly paraphrased the language of Claim 9. Claim 9 recites “identifying a set of winning players from the plurality of players by determining which of one or more players of the plurality of players correctly selected each predicted winner in the second selection for each race within the first selection.” Applicant reminds the Examiner that “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.” M.P.E.P. § 2143.03 (citing *In re Wilson*, 424 F.2d 1382, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970)). Moreover, the system of *Boylan* does not, in fact, disclose “identifying a set of winning players from the plurality of players by determining

which of one or more players of the plurality of players correctly selected each predicted winner in the second selection for each race within the first selection” as recited by Claim 9.

As a result, *Boylan* also fails to disclose, either expressly or inherently every element of Claim 9. Claim 9 is thus allowable for at least these reasons. Applicant respectfully requests reconsideration and allowance of Claim 9 and its dependents.

Claims 14-24 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Scarne’s New Complete Guide to Gambling (“*Scarne*”). Applicant respectfully traverses these rejections, as discussed below. To further clarify the scope of the claimed invention, Applicant amends Claim 14. As amended, Claim 14 recites:

A wager in an event having races, the wager comprising a bet that a particular entry selected by a bettor in each of a plurality of the races will be a winning entry, wherein the plurality of the races comprises a predetermined number of races that are selected by the bettor.

*Scarne* fails to disclose, either expressly or inherently, every element of Claim 14. For example, *Scarne* fails to disclose a wager “comprising a bet that a particular entry selected by a bettor in each of a plurality of the races will be a winning entry, wherein the plurality of the races comprises a predetermined number of races that are selected by the bettor” (emphasis and underlining added). As *Scarne* explicitly states the daily double involves either the first and second races or the fifth and sixth races and, therefore, the bettor is not allowed to select the races involved with the daily double wager. Page 40. Thus, the daily double is not a wager “comprising a bet that a particular entry selected by a bettor in each of a plurality of the races will be a winning entry, wherein the plurality of the races comprises a predetermined number of races that are selected by the bettor” as recited by Claim 14.

As a result, *Scarne* fails to disclose every element of amended Claim 14. Claim 14 is thus allowable for at least these reasons. Applicant respectfully requests reconsideration and allowance of Claim 14.

To further clarify the scope of the claimed invention, Applicant also amends Claim 15. As amended, Claim 15 recites:

A method of accepting bets on an event having a plurality of event contests, the method comprising:  
selecting a predetermined quantity of the event contests for a wager;  
receiving from a user a selection of event contests, from among the plurality of event contests, to be included in the wager, the number of selected

event contests corresponding to the predetermined quantity of the event contests; and

receiving from the user a selection of contestants corresponding to each of the selected event contests.

*Scarne* however also fails to disclose, either expressly or inherently, every element of amended Claim 15. For example, *Scarne* fails to disclose “receiving from a user a selection of event contests, from among the plurality of event contests, to be included in the wager, the number of selected event contests corresponding to the predetermined quantity of the event contests” as recited by Claim 15. As noted above with respect to Claim 14, *Scarne* explicitly states the daily double involves either the first and second races or the fifth and sixth races and, therefore, the user is not allowed to select the races involved with the daily double wager. Page 40. Thus, a betting system that supports the bets described by *Scarne* does not “receiv[e] from a user a selection of event contests...to be included in the wager” as recited by Claim 15.

Claims 25-28 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,830,068 to Brenner, et al. (“*Brenner*”). To further clarify the scope of the claimed invention, Applicant amends Claims 25 and 27. As amended, Claim 25 recites:

A system for betting on an event having a plurality of event contests, comprising:

a processor operable to determine a predetermined quantity of the event contests for a wager; and

an interface coupled to the processor and operable to:

receive from a user a selection of event contests, from among the plurality of event contests, to be included in the wager, the number of selected event contests corresponding to the predetermined quantity of the event contests;

receive from the user a selection of contestants corresponding to each of the selected event contests; and wherein the processor is further operable to determine, based on whether a predetermined number of the selected contestants won the corresponding selected event contests, if the user is a winner.

*Brenner* fails to recite, expressly or inherently, every element of amended Claim 25. For example, *Brenner* fails to disclose a processor “operable to determine, based on whether a predetermined number of the selected contestants won the corresponding selected event contests, if the user is a winner.” The cited portion of *Brenner* indicates only that the user can receive race results through a display 126 of user terminal 122. Col. 15; ll. 1-16. The cited portion of *Brenner* does not indicate that the user terminal 122 can determine “if [a]

user is a winner” or “whether a predetermined number of the selected contestants won the corresponding selected event contests.” Thus, *Brenner* does not disclose a processor operable to “determine, based on whether a predetermined number of the selected contestants won the corresponding selected event contests, if the user is a winner” as recited by Claim 25.

As a result, *Brenner* fails to recite, expressly or inherently, every element of amended Claim 25. Claim 25 is thus allowable for at least this reason. Applicant respectfully requests reconsideration and allowance of Claim 25 and its dependents.

Although of differing scope from Claim 25, Claim 27 includes elements that, for reasons substantially similar to those discussed with respect to Claim 25, are not recited by *Brenner*. Claim 27 is thus allowable for at least these reasons. Applicant respectfully requests reconsideration and allowance of Claim 27 and its dependents.

### **Section 103 Rejections**

Claims 2-3, 6-8, and 29 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Boylan* in further view of U.S. Patent 5,830,068 to Brenner, et al. (“*Brenner*”). Applicant respectfully traverses these rejections for the reasons discussed below. With respect to Claims 2-3, Applicant respectfully notes that Claims 2-3 depend from Claim 1, which has been shown above to be allowable. Claims 2-3 are thus allowable for at least these reasons.

With respect to Claim 6, Applicant amends Claim 6 to further clarify the claimed invention. As amended, Claim 6 recites:

A method of wagering on horse races in an event having a plurality of races, the method comprising:  
    receiving information specifying a predetermined number of event races to be included in a wager;  
    selecting event races to be included in the wager, the number of selected races equal to the predetermined number of event races;  
    selecting a winner for each of the selected races in the wager; and  
    receiving a payout if a predetermined number of the selected winners win corresponding chosen races.

*Boylan* and *Brenner*, both alone and in combination, fail to disclose, teach, or suggest every element of amended Claim 6 for at least several reasons. First, *Boylan* fails to disclose “selecting event races to be included in the wager, the number of selected races equal to the

predetermined number of the event races.” As discussed above with respect to Claims 1 and 9, while *Boylan* does disclose “pick-n” wagers, *Boylan* merely states that “[p]ayoff values may be provided for winning complex wager types such as exacta, trifecta, quinella, pick-n (where n is the number of races involved in the pick-n wager), and daily double.” Col. 6, ll. 19-24. *Boylan* does not indicate that the disclosed betting system allows a bettor to “select[] event races to be included in [a pick-n wager], the number of selected races equal to [a] predetermined number of event races” Thus, to the extent the Examiner is attempting to map the pick-n wagers disclosed by *Boylan* to the “wager” of Claim 6, *Boylan* does not disclose “selecting event races to be included in the wager, the number of selected races equal to the predetermined number of the event races.”

Moreover, combination with *Brenner* fails to remedy this omission as *Brenner* also fails to disclose “selecting event races to be included in the wager, the number of selected races equal to the predetermined number of the event races.” *Brenner* discloses a wager queue that stores wagers submitted by a bettor before they are transmitted to a database. Col 12, ll. 9-25. *Brenner* merely limits the number of wagers that are submitted on a single form. As the Examiner concedes *Brenner* simply “creates an upper threshold with which the number of races are limited . . .” *Office Action*, p. 7. Thus, the bettor of *Brenner* can still select less than five wagers if the bettor so chooses. Moreover, the information entered by the bettor in the cited portion of *Brenner* represents information for five different wagers. Thus, *Brenner* also does not disclose “selecting event races to be included in the wager, the number of selected races equal to the predetermined number of the event races” as recited by Claim 6.

Second, *Boylan* also fails to disclose “receiving a payout if a predetermined number of the selected winners win corresponding chosen races.” Applicant respectfully notes that the Examiner fails to address this element in rejecting Claim 6. With respect to payments of any kind, *Boylan* states, at most, that “[a]fter the user places a wager and wins or loses, the totalisator adjusts the user's totalisator account to reflect the outcome of the wager” and that “[r]acing results may be provided to the user over ...[a] communications path and the user's account may be credited or debited, as appropriate.” Col. 7, ll. 50-52; col. 18, ll. 49-51. *B Boylan* does not however disclose that the user “receiv[es] a payout if a predetermined



number of the selected winners win corresponding chosen races” as recited by amended Claim 6.

Combining *Boylan* with *Brenner* fails to remedy this omission, as *Brenner* also fails to disclose this element. With respect to payments of any kind, *Brenner* states, at most, that “[i]f, following a race, a user's wager is successful, the wagering data management system credits the user's account accordingly.” Col. 4, ll. 40-42. *Brenner* does not however disclose that the user “receiv[es] a payout if a predetermined number of the selected winners win corresponding chosen races.” Thus, *Brenner* does not disclose “receiving a payout if a predetermined number of the selected winners win corresponding chosen races” as recited by amended Claim 6.

As a result, the proposed *Boylan-Brenner* combination fails to disclose, teach, or suggest every element of Claim 6. Claim 6 is allowable for at least these reasons. Applicant respectfully requests reconsideration and allowance of Claim 6 and its dependents.

**CONCLUSION**

For at least the foregoing reasons, Applicant respectfully requests full allowance of all the pending claims.

If the Examiner believes a telephone conference would advance prosecution of this case in any way, the Examiner is invited to contact Jay Johnson, Attorney for Applicant, at the Examiner's convenience at (214) 953-6431.

No additional fee is believed to be due; however, the Commissioner is hereby authorized to charge any extra fees or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Early and favorable acceptance of this Application is respectfully requested.

Respectfully submitted,

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